

BEFORE THE
SURFACE TRANSPORTATION BOARD

CENTRAL ILLINOIS RAILROAD)
COMPANY -- DISCONTINUANCE OF) DOCKET NO. AB-1066X
SERVICE EXEMPTION -- IN PEORIA)
COUNTY, ILLINOIS)

**MOTION TO REJECT
NOTICE OF INTENT TO FILE
OFFER OF FINANCIAL ASSISTANCE**

CENTRAL ILLINOIS RAILROAD COMPANY
P.O. Box 259
Granville, IL 61326

Petitioner

THOMAS F. McFARLAND
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Attorney for Petitioner

DATE FILED: September 15, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

CENTRAL ILLINOIS RAILROAD)	
COMPANY -- DISCONTINUANCE OF)	DOCKET NO. AB-1066X
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COUNTY, ILLINOIS)	

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Pursuant to 49 U.S.C. § 1117.1, CENTRAL ILLINOIS RAILROAD COMPANY (CIRY) hereby moves for rejection of a Notice of Intent to File Offer of Financial Assistance (Notice) filed by Pioneer Industrial Railway Co. (PIRY) on September 12, 2005.

The Notice should be rejected because CIRY's petition seeks an exemption for discontinuance of service over the subject rail line, and because offers of financial assistance (OFAs) are not entertained in discontinuance-of-service proceedings. *See City of Peoria, et al. -- Adv. Discon. -- Pioneer Industrial Ry. Co.*, 2005 STB LEXIS 360 at *19. (Docket No. AB-878, decision served Aug. 10, 2005), and *City of Rochelle, IL -- Adv. Discon. -- Rochell R. Co.*, 1999 STB LEXIS 322 at *5 (Docket No. AB-549, decision served May 27, 1999).

The Notice is frivolous. PIRY was a party to *City of Peoria -- Adv. Discon. -- Pioneer Industrial Ry. Co., supra*, wherein the Board said the following only a little more than 30 days ago (at *19):

Because this decision will authorize a discontinuance of service and not an abandonment, under our precedent OFAs to take over the line are not entertained. (citing the *City of Rochelle* decision) . . . Therefore, the Cities' motion to reject PIRY's notice of intent to file an OFA will be granted . . .

Therefore, PIRY knows that OFAs to acquire rail lines are not entertained in discontinuance-of-service proceedings, yet it filed the Notice in this discontinuance proceeding anyway. In view of PIRY's blatant disregard of Board precedent of which it was well aware, punitive sanctions would be warranted against PIRY and/or its counsel. Inasmuch as the Board does not impose sanctions on parties or their attorneys, a strong admonition to pay heed to Board pronouncements will have to suffice.

That is not all that is wrong with PIRY's Notice, although it is more than enough to dictate rejection. The Notice expresses an intent to file an OFA to acquire more trackage than encompassed in CIRY's petition for exemption for discontinuance of service. CIRY seeks an exemption to discontinue service on 6.29 miles of track. PIRY announces an intent to file an OFA to acquire those 6.29 miles plus 2 miles more, for a total of 8.29 miles (Notice at 1). Even if the Board were to entertain an OFA in a discontinuance proceeding, the OFA would have to be limited to the 6.29 miles for which discontinuance is sought. PIRY has cited *Caddo Antoine, et al. - Feeder Li. Acq. - Arkansas Midland RR*, 4 STB 610 (2000), as authority for its acquisition of more trackage than proposed for discontinuance. However, that case involved the feeder railroad development statute, 49 U.S.C. § 10907, not the OFA statute, 49 U.S.C. § 10904. PIRY has not cited authority for acquisition by OFA of more trackage than that proposed for discontinuance of service. To CIRY's knowledge, there is no such authority.

WHEREFORE, the Notice should be rejected and PIRY and its counsel should be admonished to refrain from filing frivolous pleadings.

Respectfully submitted,

CENTRAL ILLINOIS RAILROAD COMPANY
P.O. Box 259
Granville, IL 61326

Petitioner

/s/
THOMAS F. McFARLAND
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Attorney for Petitioner

DATE FILED: September 15, 2005

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2005, I served the foregoing document, Motion To Reject Notice Of Intent To File Offer Of Financial Assistance, by electronic mail, on Daniel LaKemper, Esq., Pioneer Industrial Railway Co., 1318 South Johanson Road, Peoria, IL 60617.

/s/ _____
Thomas F. McFarland